

**RECORD OF PROCEEDINGS OF THE GOVERNING BODY  
CITY OF GARDNER, KANSAS**

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July 6, 2021

The City Council of the City of Gardner, Kansas met in regular session on July 6, 2021, at 7:00 p.m. in the Council Chambers at Gardner City Hall, 120 East Main Street, Gardner, Kansas, with Mayor Steve Shute presiding. Present were Councilmembers Todd Winters, Mark Baldwin, Kacy Deaton, Randy Gregorcyk, and Tory Roberts. City staff present were City Administrator James Pruetting; Deputy City Administrator Amy Nasta; Finance Director Matthew Wolff; Police Chief James Belcher; Utilities Director Gonzalo Garcia; Parks and Recreation Director Jason Bruce; Community Development Director Dave Knopick; City Engineer Tim McEldowney; Attorney Spencer Low; and City Clerk Sharon Rose. Others present included those listed on the sign-in sheet and others who did not sign in.

**CALL TO ORDER**

There being a quorum of Councilmembers present, Mayor Shute called the meeting to order at 7:00 p.m.

**PLEDGE OF ALLEGIANCE**

Mayor Shute led those present in the Pledge of Allegiance.

**PRESENTATIONS**

**PUBLIC HEARINGS**

**PUBLIC COMMENTS**

Jennifer Smith, 648 S. Oak, said in 2016, she was asked to speak regarding fireworks and those with neurological and sensory issues. She said it was a fantastic weekend, and thanked city staff. She noted businesses stayed open extra hours to accommodate guests coming to town. It was a win for Gardner and the community. But there is accountability. The city council is accountable for every citizen in the town. There are citizens with neurological disabilities, sensory issues, PTSD who love fireworks, but not since last Sunday. There are neurotypical residents with no issues who like fireworks, but not every day since last Sunday. There are days that are not to be utilized for fireworks. People got together and had a good time; it was a good opportunity because of the pandemic. Gardner PD was stretched thin, kudos to them and the agencies that came to help. For the good that happened, there are consequences. This town belittles each other on social media. Mayor needs to do something about that, to bring citizens together, but educate those on the opportunities. Nobody should need to be on their roof cleaning firework debris. Jennifer's father late stage Alzheimer's, and on Friday, there was a loud, illegal mortar shot off, and he almost bit her finger off as she was giving medicine. There needs to be consequences. She went out after hours and asked her neighbors to stop. The adults were drinking while the children set off large fireworks. Who is accountable? With all the good things that happened, they need to think about accountability to all citizens.

**CONSENT AGENDA**

- 1. Standing approval of the minutes as written for the regular meeting on June 21, 2021**
- 2. Standing approval of City expenditures prepared June 18, 2021 in the amount of \$601,734.93; June 25, 2021 in the amount of \$554,164.34; and June 25, 2021 in the amount of \$47,960.55**
- 3. Consider authorizing the execution of an agreement with Stantec Consulting Services Inc. to assess the roads of the City of Gardner**

Councilmember Deaton made a motion to approve the Consent Agenda.

Councilmember Baldwin Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

**PLANNING & ZONING CONSENT AGENDA**

**COMMITTEE RECOMMENDATIONS**

**OLD BUSINESS**

**NEW BUSINESS**

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#### **1. Consider a resolution providing the Authority to Award a contract with the Kansas Department of Transportation (KDOT) for the Moonlight Road Safe Routes to School project**

City Engineer Tim McEldowney said this is in regard to the Moonlight Safe Routes to Schools project. This is filling in trails and sidewalks around Moonlight Elementary. This is a KDOT administered project. They advertised and opened bids, with Mega KC being the low bidder. KDOT recommends awarding the construction contract to them. The total is \$481,000. KDOT's match is \$252,000, and the city's match is \$229,000. KDOT is asking the city to commit to spending the funds on the project so they can move it forward.

Shute confirmed this is for sidewalk improvement around Moonlight Elementary. McEldowney said it goes from near Warren St. to White Dr.

Councilmember Gregorcyk made a motion to adopt a resolution providing the authority to award a contract and commit city funds with KDOT for the Moonlight Safe Routes to School Project in the amount of \$229,000.

Councilmember Deaton Seconded.

With all of the Councilmembers voting in favor of the motion, the Resolution passed and was assigned Resolution number 2086.

Winters:	Yes
Gregorcyk:	Yes
Roberts:	Yes
Baldwin:	Yes
Deaton:	Yes

#### **2. Consider adopting a resolution authorizing the public sale of certain General Obligation Bonds of the City of Gardner, Kansas**

Finance Director Matt Wolff said this is a housekeeping item. On June 21, council passed 2085 authorizing the public sale of general obligation bonds. This new resolution recommends changing the sale date. The original sale date was July 19, and the new proposed date is August 2. S&P Global Ratings indicated they are experiencing a high volume of work, and staff wants to accommodate their schedule.

Councilmember Gregorcyk asked if there is any any benefit or financial impact by changing the date. Director Wolff said there is no financial impact; it's about maintaining a good relationship with S&P.

Mayor Shute asked if there will still be a ratings call. Wolff confirmed. Shute asked if there is any indication how the call will go. Wolff said based on continued development and that things are returning to normal, it sends a good message to S&P. Maintaining strong reserves also helps secure the bond rating going forward.

Councilmember Gregorcyk made a motion to adopt a resolution authorizing the offer for public sale of certain General Obligation Bonds of the City of Gardner, Kansas, and repealing Resolution No. 2085 of the City.

Councilmember Winters Seconded.

With all of the Councilmembers voting in favor of the motion, the Resolution passed and was assigned Resolution number 2087.

Gregorcyk:	Yes
Roberts:	Yes
Baldwin:	Yes
Deaton:	Yes
Winters:	Yes

#### **3. Consider adopting an ordinance amending Chapter 5.20.090 of the Municipal Code of the City pertaining to original package sales of alcoholic liquor**

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City Clerk Sharon Rose said the State Legislature passed House Bill 2137 in May amending Kansas liquor laws. This bill includes authorizing Sunday sales for Retail Liquor Store and Cereal Malt Beverage Retailers to begin as early as 9:00am in cities or counties where Sunday sales have been authorized. Sunday Sales have been authorized in the City of Gardner since November 2004. The city must adopt an ordinance authorizing Sunday sales before noon in order to comply with this change. This ordinance is subject to a 60-day waiting period, during which a petition for an election can be filed.

Councilmember Baldwin asked if the city was more restrictive than the state if they pass this. Attorney Low said no, this is conformance and the city would be out of compliance if this weren't passed, pending an election. This prevents the city from being more restrictive than the state.

Councilmember Gregorcyk questioned the strategic priority being quality of life. Mayor Shute said they needed to put it somewhere.

Councilmember Deaton made a motion to adopt an ordinance amending Chapter 5.20.090 of the Municipal Code of the City of Gardner, Kansas, entitled "Opening and Closing Hours and Dates of Sale".

Councilmember Baldwin Seconded.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2709.

Roberts:	Yes
Baldwin:	Yes
Deaton:	Yes
Winters:	Yes
Gregorcyk:	Yes

**4. Consider adopting an ordinance amending Chapter 10.15.050 of the Municipal Code of the City pertaining to truck route violations**

Deputy City Administrator Amy Nasta said at the June 21 council meeting the governing body provided unanimous consent for staff to draft an ordinance updating truck fines to \$200. This is a housekeeping item that fulfills this request.

Jennifer Smith thanked this city for this item. Residents on Oak St appreciate it.

Councilmember Gregorcyk appreciates staff work on this. He was glad to have support of the council. Mayor Shute said it's an important step. Councilmember Baldwin asked if there was consideration on having a warning, then the next is \$200, then it goes up to \$1,000 exponentially on habitual offenders. Chief Belcher didn't explore that; it would be a question for legal. Attorney Low said there may be issues, but he can look into it. Shute said if it's a small, independent trucker, it could hurt them, but it would be no issue for a large company. Councilmember Winters asked if it would be difficult to track who has had what fines. Belcher said they handle that through court. Baldwin said it could be like DUIs, each one is a worse penalty. Belcher said to move forward with that, a prosecutors would need to look at past history to determine the fines.

Mayor Shute asked if there is consensus to review an escalating system. Gregorcyk preferred to see how this works first. Baldwin is fine with it, but it could be applicable to other fines as well. Shute said they will hold with this for now. Gardner PD has been increasing enforcement on truck routes. 191<sup>st</sup> is back open, and that should help.

Councilmember Gregorcyk made a motion to adopt an ordinance amending Chapter 10.15.050 of the Municipal Code of the City of Gardner, Kansas, entitled "Violation - Penalty".

Councilmember Baldwin Seconded.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2710.

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Baldwin:	Yes
Deaton:	Yes
Winters:	Yes
Gregorcyk:	Yes
Roberts:	Yes

**COUNCIL UPDATES**

City Engineer McEldowney said Waverly Rd is closed from Madison north to Fountain. The contractor will have until school begins to complete that section, and then they will move south. They opened 188<sup>th</sup> St, but closed part of the bridge, one lane at a time, to repair the approaches. KDOT is also making repairs to the bridge. The contract is to be done by August 11 for school. Mayor Shute asked if they are flagging. McEldowney said they are not flagging, just using signs. Mayor Shute asked about when they can expect lights. McEldowney said that would be toward the end of the project. The contract runs out the end of December, and signals should be in November. Shute said they will still have issues with buses. McEldowney confirmed, but said the bridge will be open. Winters noted they did a road assessment about 5 years ago. McEldowney said staff walked the road and performed ratings. Winters asked if they will do this periodically 5-6 years. McEldowney said they will try to update annually with staff, but will use a contractor periodically to ensure the city is on track. Shute asked if the data will be inserted into Micro PAVER. McEldowney said the contractor will create a pavement index which rates each street, and that information can go into PAVER.

Director Knopick has an EDAC meeting July 21; they will hear a presentation on the downtown plan. The public is invited. Building inspector Mick Chapman is leaving July 16. They hired a new building inspector, Charles Craft, who is riding with Mr. Chapman to introduce him to builders. A planner position is still open, but they are using two interns over the summer. Mayor Shute noted that Mr. Chapman is hard to replace. Knopick said he's got the experience and knowledge base.

Director Bruce said the Independence Day festival was Sunday. All departments chipped in. He recognized Amy Craft and the rest of the staff. The police and fire departments were taxed, but they came out in full support after the air show. The school district helped with overflow parking at Pioneer Ridge. Mayor Shute said staff did a tremendous job. It was the best Independence Day festival so far.

Director Garcia noted the Hillsdale expansion achieved substantial completion on June 24. Peak demand was 4.1 the day before. Both plants are in operation and everything is going well.

Chief Belcher acknowledged staff of the Police Department. The amount of time they had to work, with minimal recovery time, was incredible. Regarding fireworks, Ms. Smith mentioned education. Staff put out numerous social media blasts in an attempt to educate. She noted accountability; Belcher said they are outnumbered by fireworks. They rely on citizens doing the right thing. They will evaluate and make changes. They took enforcement action on issues they encountered. Mayor Shute noted people shooting fireworks on private lots, especially using the old Price Chopper lot while there was an active firework tent selling. They should have been cited, but were gone by the time sheriff responded. If they are within 200 ft of a fireworks tent, it's criminal negligence. Belcher said the problem is with other calls for service, they are observing this activity while they are already responding to other calls. If it is between dealing with a fireworks issue versus an active disturbance, they respond to the disturbance. Shute said if a firework had gone off in a tent, it would have been a significant fire. Belcher said that would have been a criminal investigation. He was unaware of the call. Shute said there was a call for service; the sheriff's deputies responded and they couldn't do anything. It could be a communication issue. Belcher said they normally have more people out, and they knew the big weekend was coming, but the officers did the best they could. They will reevaluate and make changes for next year. Shute said they did amazing work; things were tight because of the air show.

City Clerk Rose said she was asked how early candidates can place their campaign signs in yards. She said the temporary sign code in the GMC allows signs to be placed 90 days from the election, which would be August 2.

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Director Wolff will have a budget presentation at the first meeting in August seeking final guidance from council. Staff will publish a budget draft for residents to review prior to the public hearing that will be held the first meeting in September. Gregorcyk asked if the presentation will be available in advance. Wolff confirmed.

City Administrator Pruetting publicly thanked Director Bruce and Chief Belcher for the work they did over the weekend. Their staff did great work, but it starts with leadership. People don't see the troubleshooting that happens. Several incidents came up, and the public was unaware of what had to be done behind the scenes.

Councilmember Roberts thanked staff for a fantastic weekend in Gardner. It was a lot of work, but it was good for Gardner. Great job finding the entertainment. Roberts believes they need to revisit the fireworks ordinance. Shute said there would be an after-action assessment. Roberts said she wasn't on the council then, but they went from 0-100, and there's room for compromise.

Councilmember Gregorcyk thanked all the agencies. There were a lot of things the community doesn't know that were handled efficiently and safely. New Century is a county asset, and it was good that the county was able to host. Gregorcyk is pro-fireworks, but they need to look at the controllable factors. Everyone has accountability. They need to understand what the sheriff's interaction was. They can improve it without diminishing the celebration. He heard a lot of positive comments about the Parks event.

Councilmember Deaton thanked the police department; they were stretched but did a great job. She was concerned about traffic flow, but it was easy to get in and out of town. Deaton thanked Parks staff for the event at Celebration Park. It exceeded expectations. Deaton watched the air show from the pool. Cars on the road were getting distracted by the show, but lifeguards kept their focus on the water, which speaks to the leadership at the pool.

Councilmember Baldwin echoed the same sentiments to staff. He noted things that happen behind the scenes. The original fireworks are still on a port. Staff figured out how to solve that problem. He is willing to open up the fireworks discussion tonight.

Councilmember Winters went to the festival in the afternoon. They enjoyed activities for kids, and the food trucks were great. He thanked New Century staff; the air show people were happy to be there. He asked when they set dates for fireworks. Belcher said they previously had direction from governing body to have the CPAC set dates that were consistent and not changing. CPAC had an open forum and one citizen showed up for public comment. CPAC set the dates for the 3<sup>rd</sup>-5<sup>th</sup> ever year, and the times for 10am-11pm. Council approved the that ordinance. Baldwin said they had 4 days originally, then down to three. There was no support to change the dates each year. Belcher has heard feedback on the length of the sale of fireworks. They begin selling on the 28<sup>th</sup>, and people are going to shoot them on the 28<sup>th</sup>. That's not a police department decision; that's a governing body decision. Shute said stands won't open if they can only sell for three days. Pruetting said they are one day shorter than what the state allows. Deaton noted they are two days shorter than the state. Shute said inventory was limited but tents sold out because of out of town visitors. Dates and times of sale will need to be evaluated. Once they open, people will start shooting them off, but they can't cut off the vendors. Gregorcyk said they need to find the balance. He isn't worried about the economics, but driving around on Monday, the trash was immense. They are making sales revenue, but they need to understand what changes can be made. Shute said the community making the streets dirty is being inconsiderate and disrespectful. The citizens need to be responsible. They talked about it for years, and the message was if citizens aren't responsible, it might get taken away. Shute isn't interested in that, as it is a unifying action and a distinction for the city. With rights come responsibilities. Roberts noted social media posts about cleaning up. She is worried that when it does rain, the debris will go into storm sewers. She hopes the education helps remind people to clean up. Baldwin said realistically they aren't shorting dates of sale. The stands need that to make their money. They can revisit dates for shooting, but that doesn't change that people have to adhere to them. There will be outliers. It's a personal responsibility issue. Even with education, they can't stop everyone. He has heard good comments and enjoyment that this is well received. This body doesn't have many options. This is on the residents. He urges the public to enjoy responsibly. Roberts asked if he thinks 11pm on traditional workday is too late. Baldwin said that's why he suggested a rolling date change to allow for the most shooting without affecting the worker. Shute said nighttime hours are restricted

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because the sun doesn't go down until 8:30. Deaton said only public comment in CPAC stressed keeping the date consistent. The rolling dates were hard to follow. That's why CPAC kept the date and times the same. Belcher said the times that are chosen won't matter, those who don't care won't change. There's no difference what's going on now versus 10 years ago when fireworks were banned. Some people aren't being respectful of their neighbors or the ordinance. Shute noted that by 11:15 most nights, shooting had calmed down. Belcher shared the same experience. Winters said he doesn't understand why they set the dates to the 3<sup>rd</sup>-5<sup>th</sup>; he would rather it be the 2<sup>nd</sup>-4<sup>th</sup>. Winters said cutting a day or two from the length of sale won't affect vendors that much; they'll sell as much in a shorter amount of time. Baldwin said the call log stats for the first night were ridiculous. Most complaints were on the first night and then it tapered off, even on the legal days. Do people want to break the rules or is it an issue of education. Baldwin suggested interactions between neighbors may improve it. Belcher noted an interaction that turned into a battery. It's an issue of respect and following the ordinance. It will be a problem whether it's the 2<sup>nd</sup>-4<sup>th</sup> or the 3<sup>rd</sup>-5<sup>th</sup>. Pruetting noted that next year, the 1<sup>st</sup> is on a Friday. They will get a lot of complaints because people gather on the weekends. Shute asked if they need to consider an ordinance change. Roberts supports changing to the 2<sup>nd</sup>-4<sup>th</sup>. Deaton suggested sending it back to CPAC to review. Gregorcyk wants to hear more from the citizens. He agreed with Winters on shortening the sale. Roberts suggested doing a fireworks survey. Baldwin said they did one 4-5 years ago. Roberts asked if they could do it again, because it's hard to get people to meetings. Shute supported a survey, but also suggested a town hall at a CPAC meeting. It would give CPAC information to begin work immediately. Gregorcyk said they need to do it right away and not wait until the fall. Pruetting said a town hall will draw out more people objecting to them because they are legal. If they weren't legal, that would draw out more people in favor. It would be a skewed view. A survey would be a lot broader. Roberts said it would draw more participation. Pruetting said they could do survey by the end of the month on the hours of day, number of days, Deaton suggested including dates of sales. Ms. Smith suggested including the PWAAC committee because ADA isn't limited to physical disabilities. She noted older community members may not have online access. It's the accountability, and not just one committee deciding. There can be volunteer communities to go out and educate. She reminded them about animals; her neighbor's dog was drugged from Sunday to today. Baldwin noted Ms. Smith's idea of volunteers going out to educate, but are there suggestions for accountability? Ms. Smith suggested taking their fireworks away. They issue permits to build a porch, they could have a permit/yellow sign to shoot fireworks. People are moving out of Gardner because of this, or moving here. People from out of town come in for the day to blow things up then leave. She didn't know her neighbor when asked them to stop; it could have been bad. Post volunteers at fireworks tents educating customers. Shute noted every stand is required to post the ordinance. Baldwin said it doesn't mean they will follow it. Ms. Smith suggested a marketing campaign with high school to do a video. Gregorcyk said they should continue with survey, add questions to what they asked previously. Belcher clarified no action from CPAC now, wait until survey. Shute confirmed, but still wants CPAC do an after-action assessment. Gregorcyk hoped more residents had attended the meeting. Baldwin said most didn't because they are happy with the fireworks. Shute said people don't want to ban fireworks, but want to see them managed better.

Mayor Shute offered kudos to Parks and PD staff. There were economic development opportunities from the air show. Gardner invested time and man-hours in the airshow, but if one of those development opportunities comes to Gardner, it's worthwhile. Belcher said they submitted an invoice to the airshow for reimbursement. They got positive feedback for the community. It was the biggest weekend in the history of the city. Winters asked if they got any drone footage of the festival. Bruce confirmed. Deaton asked about attendance, Bruce said it was bigger than 2019, maybe 8000. Gregorcyk asked if the airshow sold out both dates. Belcher said they punched 27,000 tickets on Saturday and about 30% less on Sunday. Shute said the assistant fire chief reported no fire incidents.

**EXECUTIVE SESSION**

**ADJOURNMENT**

There being no further business to come before the Council, on a motion duly made by Councilmember Gregorcyk and seconded by Councilmember Deaton the meeting adjourned at 8:26 p.m.

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City Clerk

## City of Gardner, KS

### Council Actions

July 6, 2021

The City Council took the following actions at the July 6, 2021, meeting:

1. Approved the minutes as written for the regular meeting on June 21, 2021. (Passed unanimously)
2. Approved City expenditures prepared June 18, 2021 in the amount of \$601,734.93; June 25, 2021 in the amount of \$554,164.34; and June 25, 2021 in the amount of \$47,960.55. (Passed unanimously)
3. Authorized the City Administrator to execute an agreement with Stantec Consulting Services, Inc. to assess and rate the pavement condition of the City's street network in an amount not to exceed \$37,552.00. (Passed unanimously)
4. Adopted Resolution No. 2086, a resolution providing the authority to award a contract and commit city funds with KDOT for the Moonlight Safe Routes to School Project in the amount of \$229,000. (Passed unanimously)
5. Adopted Resolution No. 2087, a resolution authorizing the offer for public sale of certain General Obligation Bonds of the City of Gardner, Kansas, and repealing Resolution No. 2085 of the City. (Passed unanimously)
6. Adopted Ordinance No. 2709, an ordinance amending Chapter 5.20.090 of the Municipal Code of the City of Gardner, Kansas, entitled "Opening and Closing Hours and Dates of Sale". (Passed unanimously)
7. Adopted Ordinance No. 2710, an ordinance amending Chapter 10.15.050 of the Municipal Code of the City of Gardner, Kansas, entitled "Violation - Penalty". (Passed unanimously)